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OFFICE OF PETITIONS

In re Application of
Brychcy et al.
Application No. 10/539,034
Filed: June 10, 2005
Attorney Docket No. 2002DE144

ON PETITION

This is a decision on the petition filed September 15, 2006, requesting that the above-identified application be accorded a filing date of June 10, 2005, rather than the presently accorded date of June 11, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on June 10, 2005, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. ED 795273292 US, showing a handwritten "date-in" of "06-11-05." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated June 10, 2005, on the cover page for the application papers. Additionally, applicant has submitted a copy of a postal service sales receipt, which shows Express Mail label No. ED 795273292 US as having a receipt date of June 10, 2005.

To further substantiate applicant's allegation that the application papers for this file were deposited on the requested filing date, an independent search was made of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on June 10, 2005, at 4:42 p.m. at the Charlotte, NC USPS.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on June 10, 2005. Accordingly, the instant application is entitled to a filing date of June 10, 2005, and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been collected.

This matter is being referred to the Office of Initial Patent Examination Division for further processing with a filing date of June 10, 2005, along with a corrected filing receipt.

Telephone inquiries concerning this matter may be directed Petitions Examiner Liana Walsh at (571) 272-3206.

Frances Hicks
Frances Hicks
Petitions Examiner
Office of Petitions